

Serial No. 09/833,367

REMARKS

Claims 2-7, 11-17 and 20-23 are pending in the present application. The applicants respectfully request reconsideration and allowance of the present application in view of the above amendments and the following remarks.

Claims 2, 6-7, 11, 17 and 20-21 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Arnold et al., U.S. Patent No. 5,475,677 (hereinafter "Arnold") in view of Koshi et al., U.S. Patent No. 5,475,677 (hereinafter "Koshi"). The rejection is respectfully traversed.

Applicants briefly note with some confusion that in the previous Office Action mailed August 24, 2004, the Examiner indicated that claim 2, 3 and 11-13 and 20-23 would be allowable if re-written. While the claims were rewritten as indicated in the previous response dated November 24, 2004, the Examiner has performed an additional search with regard to these claims. The applicants appreciate the Examiner's explanation in the telephone call of July 27, 2005 that, as a quality improvement measure, an additional search was performed. Applicants also suggested that a more conspicuous indication of the withdrawal of the indication of allowable subject matter in view of the newly discovered art would be greatly appreciated.

In addressing the present rejection, applicants first note that the Examiner has failed to show that one of ordinary skill in the art, based on a suggestion contained in the references, would have been motivated to combine the references to arrive at the claimed invention. More specifically, Koshi is drawn to image coding, which, as will be appreciated by one of ordinary skill in the art, is clearly distinguishable from real time speech encoding as taught in Arnold, and wireless communication systems at radio frequencies as disclosed in the present application. Koshi describes image encoding for facsimile images in page memory that satisfy criteria including uniform compressibility of images.

Serial No. 09/833,367

Since there is no description in Koshi of particulars of transmitting the images in a transmission system, Koshi necessarily cannot teach or suggest a predetermined transmit schedule that selects the first data encoder *for producing first transmit data*. Applicants note that the cited section of Koshi appears to be the product of a computer search since nearly the exact claim terms appear in the cited section, e.g. "selected more frequently." While such a search may appear to produce relevant results, its very use in such a manner is indicative of classic and improper hindsight reconstruction and piecemeal application of the art. Nevertheless, Koshi fails to teach the claimed features.

Koshi, at best, in the cited section describes the operation of block classification unit 7 classifying image blocks based on the degree of tone level contained therein. In a static processing environment, that is, in a non-real time communication environment, image data is divided into blocks and the blocks are separately and independently encoded based on the tone level associated with each. In the encoder section that performs truncation, e.g. encoder 4a, encoding is performed more frequently to maintain a balance within the total image size of smooth gradient blocks which are more common. Encoding is performed less frequently in encoder 4c, which processes *n* tone level blocks.

It is important to note however that the operations described above with reference to Koshi are performed on blocks associated with the same image and therefore are not performed during a transmission operation. Further, in Koshi, the encoders are not selected from a predetermined transmit schedule, but rather encoding is performed *with no disclosed time constraints* in a page memory. It should also be noted that the block classification operations in Koshi are performed only to maintain a uniform size of all images as noted, for example, at col 1, line 38. The selector 6 of Koshi simply determines which blocks of the image are processed in which encoders based on classification results which in turn are based on tone. There is simply

Serial No. 09/833,367

no mention in Koshi of the claimed feature wherein the *predetermined transmit schedule* selects the first data encoder more frequently than the second data encoder *to deliver a predetermined target power.*

In Arnold, which is clearly drawn to a speech based system, the audio encoder and decoder are placed in connection with a microphone and speaker and thus could not be adapted, particularly without significant modification and experimentation, to process image signals. It is well understood in the art that speech encoding is performed according to one set of coding standards, e.g. A-law, μ -law, and the like, while video is performed according to entirely different standards such as MPEG and the like. The "encoding" methods described in Koshi are not intended as a transmission coding, but rather are associated with a method for compressing the image to a particular uniform size based on the tonal quality while the image is in page memory. Thus, since Koshi has no bearing on speech coding and transmission as described in Arnold, one of ordinary skill in the art would have no motivation to combine Koshi with Arnold. Further, the combination of Koshi and Arnold still fails to teach or suggest all the features of the claimed invention since the block encoding described in Koshi is not related to the select operation of the predetermined transmit schedule as described above.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that no evidence has been provided of a suggestion or motivation for the applied art combination, the Examiner has used improper hindsight reconstruction and piecemeal application of the prior art, and the applied art combination still fails to teach or suggest all the claimed features as required. It is respectfully requested that the rejection of independent claims 2, 11 and 20 be reconsidered and withdrawn.

Serial No. 09/833,367

Claims 6-7, 17 and 21, by virtue of depending from independent claims 2, 11 and 20, are allowable for at least the reasons set forth hereinabove. It is respectfully requested therefore that the rejection of claims 6-7, 17 and 21 be reconsidered and withdrawn.

Claims 3, 4 and 12-14 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Arnold in view of Koshi as applied above and further in view of Judd et al., U.S. Patent No. 6,701,137 (hereinafter "Judd"). The rejection is respectfully traversed.

Claims 3, 4 and 12-14, by virtue of depending from claims 1 and 11, are allowable for at least the reasons set forth hereinabove with regard to claims 1 and 11. In addition claims 3, 4 and 12-14 are independently allowable in that, for the reasons noted above, evidence is lacking to support the combination of Arnold and Koshi and the combination does not teach or suggest the claimed features. Further, the Examiner has not provided evidence showing a suggestion or motivation in the references that would drive one of ordinary skill in the art to add Judd to the already improper combination of Arnold and Koshi.

Accordingly, a *prima facie* case of obviousness has not properly been established in that the Examiner has provided no evidence to support the applied art combination. Further claims 3, 4 and 12-14 depend from allowable claims 1 and 11. It is respectfully requested that the rejection of claims 3, 4 and 12-14 be reconsidered and withdrawn.

Claims 5, 15 and 16 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Arnold in view of Koshi as applied above and further in view of Martone et al., U.S. Patent No. 6,603,806 (hereinafter "Martone"). The rejection is respectfully traversed.

Claims 5, 15 and 16 by virtue of depending from claims 1 and 11 are allowable for at least the reasons set forth hereinabove with regard to claims 1 and 11. In addition claims 5, 15 and 16 are independently allowable in that, for the reasons noted above, evidence is lacking to support the combination of Arnold and Koshi and the combination does not teach or suggest the

Serial No. 09/833,367

claimed features. Further, the Examiner has not provided evidence showing a suggestion or motivation in the references that would drive one of ordinary skill in the art to add Martone to the already improper combination of Arnold and Koshi.

Accordingly, a *prima facie* case of obviousness has not properly been established in that the Examiner has provided no evidence to support the applied art combination. Further claims 5, 15 and 16 depend from allowable claims 1 and 11. It is respectfully requested that the rejection of claims 5, 15 and 16 be reconsidered and withdrawn.

Claims 22-23 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Arnold in view of Koshi as applied above and further in view of Fujiki et al., U.S. Patent No. 6,847,807 (hereinafter "Fujiki"). The rejection is respectfully traversed.

Applicants note that the Fujiki reference does not appear in either of the forms PTO-892 that accompanied the Office Actions of May 12, 2005 and August 24, 2004 issued to date in connection with the present application, and were not cited in an Information Disclosure Statement. Applicants respectfully request that the Examiner list Fujiki on a Supplemental Form PTO-892 in the next communication from the PTO regarding the present application.

Claims 22-23, by virtue of depending from claim 20 is allowable for at least the reasons set forth hereinabove with regard to claim 20. In addition claims 22-23 are independently allowable in that, for the reasons noted above, evidence is lacking to support the combination of Arnold and Koshi and the combination does not teach or suggest the claimed features. Further, the Examiner has not provided evidence showing a suggestion or motivation in the references that would drive one of ordinary skill in the art to add Fujiki to the already improper combination of Arnold and Koshi.

Accordingly, a *prima facie* case of obviousness has not properly been established in that the Examiner has provided no evidence to support the applied art combination. Further claims

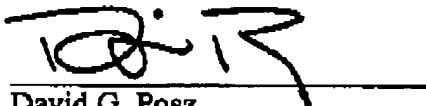
Serial No. 09/833,367

22-23 depend from allowable claim 20. It is respectfully requested that the rejection of claims 22-23 be reconsidered and withdrawn.

In view of the foregoing, the applicants respectfully submit that the present application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



David G. Posz
Reg. No. 37,701

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400